

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

LEONARD LETT,

Plaintiff,

v.

Civil Action No. 3:08-cv-01323
Removed from the Circuit Court of
Putnam County, W. Va.
Civil Action No. 07-C-404

MONSANTO COMPANY, *et al.*,

Defendants.

MOTION TO REMAND DUE TO UNTIMELY REMOVAL
AND TO RECOVER COSTS AND ATTORNEY FEES

NOW COME the Plaintiff, by and through undersigned Class Counsel, pursuant to 28 U.S.C. § 1447(c), and move this honorable Court for an order of remand, because the Defendant Monsanto's removal of this matter was untimely, and for costs, attorney fees, and sanctions for improper removal. In support of their motion, Plaintiffs incorporate by reference and refer the Court to the Motion for Remand and supporting Memorandum of Law in the case styled *Zina Bibb, et al., v. Monsanto Company, et al.* (Civil Action No. 3:08-cv-1358), which was also removed to this same Court. The removal of the instant case -- as a "parallel litigation" -- is premised entirely on the validity and timeliness of the removal of the *Bibb* case.

WHEREFORE, Plaintiffs respectfully request that their motion be granted, that the Court remand this matter and award them costs and attorney fees for improper removal, and that the Court grant them whatever further relief the Court deems just and proper.

Respectfully submitted,
Plaintiffs by counsel:

s/David H. Carriger
Stuart Calwell (WV Bar No. 595)
David H. Carriger (WV Bar No. 7140)
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Class Counsel

CERTIFICATE OF SERVICE

I, David H. Carriger, of The Calwell Practice, PLLC, do hereby certify that a true and exact copy of “**Motion To Remand Due To Untimely Removal And To Recover Costs And Attorney Fees**” was served this 1st day of December, 2008, with the Court using CM/ECF which will send notification of such filing to the following CM/ECF participants:

Charles M. Love, III, Esquire
Bowles Rice McDavid Graff & Love
600 Quarrier Street
Charleston, WV 25301

s/David H. Carriger (WV Bar No. 7140)